

Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMARocky Joe Mertens

Plaintiff

(Write your full name. No more than one plaintiff may be named in a complaint.)

-v-

Case No.

(to be filled in by the Clerk's Office)

3:17-cv-01747-LSC-JEO

Theresa Qualls,  
Timothy Baggett, Felix MajicaFranklin Co. Jail and Shannon Oliver

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all of the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here. Your complaint may be brought in this court only if one or more of the named defendants is located within this district.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS  
(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee of \$400.00 or an Application to Proceed *In Forma Pauperis*.

Mail the original complaint and the filing fee of \$400.00 or an Application to Proceed *In Forma Pauperis* to the Clerk of the United States District Court for the Northern District of Alabama, Room 140, Hugo L. Black U.S. Courthouse, 1729 5th Avenue North, Birmingham, Alabama 35203-2195.

**I. The Parties to this Complaint****A. The Plaintiff**

Provide the information below for the plaintiff named in the complaint.

Name

*Rocky Joe Mertens*All other names by which  
you have been known:

ID Number

*AIS#191520 Prisoner # 954088*

Current Institution

*Franklin County Jail*

Address

*748 Walnut Gate rd.**Russellville AL 35654*

City

State

Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

*Shannon Oliver*

Name

*Franklin County Jail and Sheriff Shannon*Job or Title (*if known*)*Sheriff*

Shield Number

*N/A*

Employer

*Franklin County Jail*

Address

*748 Walnut Gate rd.*

City

State

Zip Code

 Individual Capacity Official Capacity

Defendant No. 2

*Felix Mohr Mojina*

Name

*Corrections Officer*Job or Title (*if known*)*N/A*

Shield Number

*Franklin County Jail*

Employer

*748 Walnut gate rd.*

Address

*Russellville*

City

State

Zip Code

 Individual Capacity Official Capacity

## Defendant No. 3

Name	<u>Timothy Bagget</u>			
Job or Title (if known)	<u>Corrections Officer</u>			
Shield Number	<u>Sargent</u>			
Employer	<u>Franklin County Jail</u>			
Address	<u>748 Walnut gate rd.</u>			
Russellville	AL	35654	Zip Code	
	<input checked="" type="checkbox"/>	Individual Capacity	<input type="checkbox"/>	Official Capacity

## Defendant No. 4

Name	<u>Theresia Qualls Captain</u>			
Job or Title (if known)	<u>Captain</u>			
Shield Number	<u>N/A</u>			
Employer	<u>Franklin County Jail ofc</u>			
Address	<u>748 Walnut Lane</u>			
Russellville	AL	35654	Zip Code	
	<input checked="" type="checkbox"/>	Individual Capacity	<input type="checkbox"/>	Official Capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal law]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

## A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

## B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities, secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Religious Practice discriminated by my nationality or race

- C. Plaintiffs suing under *Bivens* may only recover for violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?
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- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

*Tim (Sargent) and felix (C.O) told me, in front of the population of the Medium dorm, if I wasn't hispanic I could not attend the Christian Church Service.*

**III. Prisoner Status**

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- Pretrial detainee  
 Civilly committed detainee  
 Immigration detainee  
 Convicted and sentenced state prisoner  
 Convicted and sentenced federal prisoner  
 Other \_\_\_\_\_  
(explain)
- 

**IV. Statement of Claim**

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.
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- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

*they arose in the Midiam Dorm of the franklin County Jail approximatley August 20(ish) 2017*

- C. What date and approximate time did the events giving rise to your claim(s) occur?

Approximately August 20, 2017 around noon

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Sargent Tim and C.O. Felix informed me that I could not attend the church service because I was not Hispanic. I made him repeat the statement in front of the population. Injuries (Witness Malcolm Sparks, and Jason Bates)

If you sustained injuries related to the events alleged above, describe your injuries in detail.

Deprived from the edification of the Holy Spirit

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I would like for the discrimination of race to be stopped.

I would like to be compensated for the deprivation of my religious practices for the sum of \$100,00~~00~~ and/or the dismissal of the case that I am incarcerated on if possible.

I would like forced resignation of the Captain for failure to properly train her officers.

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

- E. If you did file a grievance:

1. Where did you file the grievance?

Franklin County Jail

• written

2. What did you claim in your grievance?

Discrimination Grievance written on Paper

3. What was the result, if any?

No results

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I took a picture of the Grievance and shared it to my public profile on the kiosk (since the kiosk does not have the religious discrimination option) in which it has denied which shows that it was viewed by head staff members. Yet nothing was done or no action was taken nor did I get a response.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

*I did inform Felix and Tim that I was gonna file suit and they said, with an attitude, that's fine.*

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

*the Guatamolin inmates were allowed to go and one of them does not speak much spanish,*

*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had any cases dismissed based on grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted?

- Yes  
 No

If yes, state which court dismissed your case(s), when this occurred, and attach a copy of the order(s) if possible.

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court (*if federal court, name the district; if state court, name the county and State*)  
\_\_\_\_\_

3. Docket or index number  
\_\_\_\_\_

4. Name of Judge assigned to your case  
\_\_\_\_\_

5. Approximate date of filing lawsuit  
\_\_\_\_\_

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? (*For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?*)  
\_\_\_\_\_

**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.**

Printed Name of Plaintiff

Rocky Joe Mertens

Prison Identification #

qis# 191522 prisoner# 954088

Prison Address

748 Walnut Goto rd.

Russellville

City

AL

356.54

State

Zip Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

September 14, 2017

(Date)

Rock Mertens

Signature of Plaintiff